

by the definition in 1ii(1) or (2) above;

- (4) Beneficial interest is cumulative, if it relates to spouse, parent or children.
- (i) In related lease transactions, the rent paid to the lessor by the provider is not allowable as cost. The provider, however, would include in its costs the property expenses of ownership of the facility. The effect is to treat the facility as though it were owned by the provider. The treatment of these non-allowable costs is consistent with Federal regulations as they apply to costs to related organizations.
- (j) Any legal expenses and related fees associated with any action initiated by the facility that is dismissed on the basis that no reasonable ground existed for the institution of such action will be excluded for reimbursement purposes.
- (k) The cost of legal services for the appeal of reimbursement rates will be excluded for reimbursement purposes.

3.4 Equalized costs

- (a) In order to equitably develop an apply screens the following computation will be made:

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1. General fringe benefits will be allocated to function as a percentage of salaries reported to develop total compensation. General fringe benefits will include the raw food value of free and subsidized meals to employees.
2. Costs will be equalized to adjust for timing differences among NF's fiscal years.
3. The term "equalized costs" means the net amount of compensation costs (salary and fringe benefits) plus other expenses, less expense recoveries and nonallowable costs, adjusted for timing differences among NF's fiscal years.
4. For NFs which provide residential, sheltered or domiciliary care, equalized nursing facility costs will be determined by apportioning equalized cost in the same ratio as the apportionment of unequalized net expenses.
5. The equalized net routine expenses will be apportioned to residential/sheltered care and nursing facility care in the same ratio as unequalized net routine expenses are apportioned, except in the case of land and building related items (see sections 3.6 and 3.11.)

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6. In the calculation of costs screens, the per diem median runs, and the cost regression analysis for the administrator/management screen will be calculated using actual patient days excluding bed hold days.

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3.5 Raw food costs

(a) Raw food costs per patient day for voluntary and proprietary NFs which provide their own food service and which had over 20 percent Medicaid patient days in the base period will be determined. NFs which contract for their dietary operations will be excluded. These per diem costs will be ranked in descending order on a Statewide basis. The reasonableness limit will be set at 120 percent of the median cost per day.

1. Governmental NFs which provide their own food service and which had over 20 percent Medicaid patient days in the base period will be ranked separately and the reasonableness limit will be set at 120 percent of their median cost per day.

2. SCNFs which provide their own food service will be ranked separately for each type of Class III NF and a reasonableness limit for each type will be set at 120 percent of the median cost per day.

(b) For NFs below this limit, prospective rates will be based upon actual costs. Where homes report unit costs 15 percent or more below the median, the Department of Health, Health Facilities Inspection, will be asked to inspect the food operations for compliance with State standards.

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- (c) For NFs above this limit, the excess of actual raw food costs will be added to other general service expenses and subjected to a screen of the combined total as described in section 3.6. Accordingly, a credit may be applied to excess raw food costs if non-food general service costs are below the reasonable limit where an excess raw food costs is indicated. Any such credit is limited to amount of raw food cost excess.

3.6 General service expenses

- (a) For purposes of screening reported base period costs, the general services category will be segregated into the following cost components:

1. Food;
2. Administrator;
3. Assistant Administrator;
4. Other general services/legal fees.

- i. Reasonableness limits will be developed for each of these components of cost. Reimbursement rates will

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include the lower of actual costs or reasonable limits developed for each component. No trade-offs among cost components will be allowed with the exception of raw food (see section 3.5).

(b) The bases for screen development and reported costs subject to applicable screens, are as follows:

1. Food: As indicated in section 3.5.
2. Administrator: Reasonable compensation of unrelated administrators as determined by the regression analysis formula utilized by the Division of Medical Assistance and Health Services, Office of Health Facilities Rate Setting.
 - i. The regression will utilize as variables: fringed salaries of unrelated administrators and facility bed size. The constants resulting from the regression formula will then be used in the following formula to produce reasonableness limits for each long-term care provider.

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$$\left[X + \left(\frac{Y}{\text{Median Days Per Bed}} \times \frac{NF}{\text{Patient Days}} \right) \right] \times 1.0 = \text{Limit}$$

X = Salary constant from regression

Y = Per bed salary constant from regression

ii. The administrator screen will be applied to the aggregate reported costs of management, administrator, and assistant administrator, for facilities with less than 100 licensed nursing facility beds.

iii. Compensation and special fringe benefits of all owners, officers, related parties and other employees acting in an administrative capacity must be reported as Management unless such parties specifically carry out the function of Administrator or Assistant Administrator.

iv. Non-working officer, owner, or related party compensation and special fringe benefits are non-allowable.

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3. Assistant Administrator: Limited to 100 percent of median unrelated assistant administrator compensation.
 - i. This cost category will apply only to facilities which exceed 99 licensed nursing facility beds.
4. Other general services/legal fees. This category will consist of the following cost elements:
 - i. Other Administrative;
 - ii. Dietary;
 - iii. Laundry and linen;
 - iv. Housekeeping;
 - v. Miscellaneous general services.
5. Reasonableness limits for the other general services category will be established at:
 - i. 100 percent of median costs as reported by Class I facilities which had over 20 percent Medicaid patient days.

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- ii. 100 percent of median costs as reported by Class II facilities which had over 20 percent Medicaid patient days.
- iii 100 percent of median costs for each type of Class III program as reported by SCNFs.

6. The level for reasonableness for legal fees will be established at:

- i. 250 percent of median costs of Class I and Class III facilities which had over 20 percent Medicaid patient days or that per diem value which recognizes no greater than 80 percent of reporting Class I and Class III NFs which had over 20 percent Medicaid days.
- ii. 250 percent of median costs of Class II facilities which had over 20 percent Medicaid patient days or that per diem value which recognizes no greater than 80 percent of reporting Class II NFs which had over 20 percent Medicaid days.

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7. Reasonableness tests will exclude from rate calculations the greater of excess other general services or legal fee costs.
8. The following examples illustrate this procedure assuming reasonableness limits are established at \$100,000 and \$5,000 for other general services and legal fees respectively:

Case No. 1	Reported costs	Excess
Other general services	\$110,000	\$ 10,000
Legal fees	\$ 7,000	
Case No. 2		
Other general services	\$ 98,000	
Legal fees	\$ 7,000	\$ 2,000
Case No. 3		
Other general services	\$ 99,000	-0-
Legal fees	\$ 4,500	

3.7 Property operating expenses

- (a) Property operating expenses include property taxes and utilities.

1. Property taxes will be considered reasonable so long as they are based upon reasonable plant square feet, costs per square foot, and reasonable land area and value.

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